

## Federal Retirement Thrift Investment Board

## § 1605.1

and a civilian account for an individual:

(1) A separate loan application must be made for each account;

(2) A participant may have no more than two loans outstanding from each account at any time; one loan from each account may be a loan for the purchase of a primary residence;

(3) The Internal Revenue Code maximum loan amount test, which is described in 5 CFR part 1655, will be applied using the combined balances in both TSP accounts; and

(4) Separate TSP loan statements will be issued for each account.

(b) *Spousal rights*. Before a loan agreement is approved for a service member account, the participant's spouse must consent to the loan by signing the loan agreement. A request for an exception to the spousal consent requirement will be evaluated under the rules explained in 5 CFR part 1650.

(c) *Combat zone contributions*. The portion of a loan that is attributable to combat zone contributions (if any) will be determined when the loan is declared a taxable distribution, and that portion will not be reported as taxable income to the participant as a result of the declaration.

### PART 1605—CORRECTION OF ADMINISTRATIVE ERRORS

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AUTHORITY: 5 U.S.C. 8351, 8432a, and 8474(b)(5) and (c)(1).

Section 1605.14 also issued under Title II, Pub. L. 106-265, 114 Stat. 770.

Subpart D also issued under 5 U.S.C. 8432b(b)(4) and (i), 8440e.

SOURCE: 66 FR 44277, Aug. 22, 2001, unless otherwise noted.

#### Subpart A—General

##### § 1605.1 Definitions.

As used in this part:

“*As of*” date means the date on which a TSP contribution or other transaction should have taken place.

*Attributable pay date* ordinarily means the pay date of an erroneous contribution with respect to which a negative adjustment is being made. If, however, the erroneous contribution was a makeup or late contribution, the attributable pay date is the “as of” date associated with the erroneous makeup or late contribution.

*Board error* means any act or omission by the Board which is not in accordance with applicable statutes, regulations, or administrative procedures made available to employing agencies and/or TSP participants.

*Contribution allocation of record* means the last contribution allocation on file for the participant's account, which either will have been derived pursuant to §1601.12 of this chapter or will result from the participant's filing of an election pursuant to §1601.13 of this chapter.

*Employing agency* means the organization that employs an individual eligible to contribute to the TSP and that has authority to make personnel compensation decisions for the individual.

*Employing agency error* means any act or omission by an employing agency that is not in accordance with all applicable statutes, regulations, or administrative procedures, including internal procedures promulgated by the employing agency and TSP procedures provided to employing agencies by the Board.

*FERCCA correction* means the correction of a retirement coverage error

pursuant to the Federal Erroneous Retirement Coverage Corrections Act, title II, Public Law 106-265, 114 Stat. 770.

*Late contributions* means: Employee contributions that were timely deducted from a participant's basic pay but were not timely reported to the TSP record keeper for investment; employee contributions that were timely reported to the TSP but were not posted to the participant's account by the TSP because the payment record on which they were submitted contained errors; and attributable agency matching contributions and agency automatic (1%) contributions that were not timely reported.

*Lost earnings record* means a data record containing information enabling the TSP system to compute lost earnings.

*Makeup contributions* are employee contributions that should have been deducted from a participant's basic pay, or employer contributions that should have been charged to an employing agency, on an earlier date but were not deducted or charged and, consequently, are being deducted or charged currently.

*Negative adjustment* means the removal of money from a participant's TSP account by an employing agency.

*Negative adjustment record* means a data record submitted by an employing agency to remove from a participant's TSP account money which was previously submitted in error.

*Pay date* means the date established by an employing agency for payment of its employees.

*Payment record* means a data record submitted by an employing agency to report contributions or loan payments to a participant's TSP account.

*Record keeper error* means any act or omission by the TSP record keeper that is not in accordance with applicable statutes, regulations, or administrative procedures made available to employing agencies and/or TSP participants.

*Source of contributions* means employee contributions, agency automatic (1%) contributions, or agency matching contributions.

*TSP record keeper* means the entity that is engaged by the Board to per-

form record keeping services for the Thrift Savings Plan. The TSP record keeper is the National Finance Center, United States Department of Agriculture, located in New Orleans, Louisiana.

### Subpart B—Employing Agency Errors

#### § 1605.11 Makeup of missed or insufficient contributions.

(a) *Applicability.* This section applies whenever, as the result of an employing agency error, a participant does not receive all of the TSP contributions to which he or she is entitled. This includes situations in which an employing agency error prevents a participant from making an election to contribute to his or her TSP account, in which an employing agency fails to implement a contribution election properly submitted by a participant, in which an employing agency fails to make agency automatic (1%) contributions or agency matching contributions that it is required to make, or in which an employing agency otherwise erroneously contributes less to the TSP for a participant's account than it should have. The corrections required by this section must be made in accordance with this part and the procedures provided to employing agencies by the Board in bulletins or other guidance. It is the responsibility of the employing agency to determine whether it has made an error that entitles a participant to error correction under this section.

(b) *Employer makeup contributions.* If an employing agency has failed to make agency automatic (1%) contributions that are required under 5 U.S.C. 8432(c)(1)(A), agency matching contributions that are required under section 8432(c)(2), or conversion contributions that are required under section 8432(c)(3), the following rules apply:

(1) The employing agency must promptly submit all missed contributions to the TSP record keeper on behalf of the affected participant. For each pay date involved, the employing agency must submit a separate payment record showing the "as of" date